

Lexington, Kentucky May 30, 2006

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on May 30, 2006 at 6:00 P.M. Present were Mayor Teresa Ann Isaac in the chair presiding and the following members of the Council: Council Members Brown, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Myers, Shafer, Stevens and Wigginton. Absent were Council Members Cegelka, Moloney, Scanlon and Stinnett.

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An Ordinance changing the zone from a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 0.23 net (0.40 gross) acre of property located at 717 North Broadway (Moe Sader) was given second reading with a public hearing being held.

The Mayor swore in the witnesses.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) MAR 2006-9, Final Report and minutes of the Planning Commission, (4) Zoning Ordinance with amendments, (5) Land Subdivision Regulations, (6) 2001 Comprehensive Plan, (7) Letter from Ms. Cindy Olson, (8) Map – USA #17, (9) Drawing showing subject property and surrounding neighborhoods, (10) Photos of subject property and surrounding neighborhood, (11) Excerpt – 2001 Comprehensive Plan, (12) Section of 2001 Comprehensive Plan Map, (13) Preliminary Development Plan and (14) Comprehensive Plan Map Inside New Circle Road.

Mr. Kevin West, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Affidavit of sign posted, (2) Photos of property, (3) Photos of petitioner's existing business, (4) Photo of Subway business, (5) Photo of Rite Aid business, (6) Photos of Hart's Cleaners, (7) Photo of Speedway station, (8) Photo of Valvoline Instant Oil Change business, (9) Photo of Powers Transmission repair business, (10) Photo of Indi's Chicken business, (11) Photo of Check Advance business, (12) Photo of Check Exchange business and (13) Project/Impact/Map information.

The following witnesses spoke in support of the requested zone change: (1) Mr. Moe Sader, petitioner, and (2) Ms. Lettie Cornett, employee of Mr. Sader.

Mr. Bruce Simpson, attorney representing the Northside Neighborhood Association, gave the reasons against the requested zone change and filed the following exhibit: (1) Exhibit Book.

The following witnesses spoke against the requested zone change: (1) Mr. Joe Scott, 325 N. Broadway, President of the Northside Neighborhood Assoc., (2) Mr. Bill Johnston, 645 W. Short St., member of the Western Suburb Neighborhood Assoc. and the Northside Neighborhood Assoc., who filed the following exhibits: (a) Map of subject property and area and (b) Photos of houses in area, (3) Mr. John Hackworth, 220 Market St., President of the Gratz Park Neighborhood Assoc. and President of the Bluegrass Trust for Historic Preservation, (4) Mr. Steve Brown, 360 Hampton Court, President of the Fayette Co. Neighborhood Council, and Past President of the Northside Neighborhood Assoc., (5) Ms. Linda Carroll, 343 N. Limestone, Mulberry Hill Historic District, Past President of the Northside Neighborhood Assoc., and (6) Ms. Lillian Gentry, 450 N. Upper St., member of Northside Neighborhood Assoc. and Upper St. Neighborhood Assoc.

The following citizens spoke against the requested zone change: (1) Mr. Eric Elliott, area resident, (2) Mr. Robert Dalton, 520 Douglas Avenue, representing the Georgetown Street Neighborhood Assoc., and (3) Mr. James B. Evans, landscape architect, part owner of 628 N. Broadway, who filed the following exhibit: (a) Letter.

Mr. West made his rebuttal.

Mr. Simpson made his closing statement.

Mr. West made his closing statement.

The Council asked questions of Mr. Sallee.

Mr. Brown made a motion, seconded by Mr. DeCamp (and Mr. Myers), to approve the following Findings of Fact for Disapproval of the Planning Commission:

1. The requested B-3 zoning and the proposed use are not in agreement with the 2001 Comprehensive Plan since it recommends Retail, Trade and Personal Services (RT) future land use for the subject property.
2. There have been no unanticipated changes of a physical, social, or economic nature that have altered the character of this neighborhood since the adoption of the 2001 Comprehensive Plan.

3. The proposed Highway Service Business (B-3) zoning is inappropriate for the subject property for the following reasons:
- a. It will allow more intense business uses to abut an established low density residential neighborhood.
 - b. There is no compelling need for this proposed B-3 zoning, as this area of the community is well served by the existing neighborhood-oriented businesses along North Broadway, and by B-3 zoning closer to New Circle Road.
4. The existing Neighborhood Business (B-1) zoning is appropriate at this location since the property is bounded on either side by Neighborhood Business (B-1) zoning, since similar business uses have been developed along this portion of North Broadway that continue to operate successfully, and since the subject property could be redeveloped for many other retail or service uses in keeping with the existing zoning.

The motion passed by the following vote:

Aye: Brown, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Myers, Shafer, Stevens, Wigginton ----- 11

Nay: ----- 0

The ordinance failed to pass by the following vote:

Aye: ----- 0

Nay: Brown, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Myers, Shafer, Stevens, Wigginton ----- 11

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The Council adjourned at 7:43 p.m.

Clerk of the Urban County Council